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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING SUNDRY PAPERS RELATING TO

Transactions in East and West Florida,

Received at the Department of State since his Message of 28th January, last,

WITH COPIES OF

TWO LETTERS FROM THE SECRETARY OF STATE,

UPON THE SAME SUBJECT.

APRIL 19, 1822.

Printed by order of the Senate of the United States.

WASHINGTON:

PRINTED BY GALES & SEATON.

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I communicate to the Senate copies of sundry papers having relation to transactions in East and West Florida, which have been received at the Department of State since my Message to the two Houses of Congress, of the 28th of January last, together with copies of two letters from the Secretary of State, upon the same subject.

JAMES MONROE.

Washington, 18*th April*, 1822.

Mr. Worthington to the Secretary of State, 15th January, 1822, (Extract.)

Enclosures.

No. 12. Col. Forbes to Mr. Worthington, 8th January, 1822.
13. Mr. Law to the same, - - 14th

Extract of a letter from Mr. Worthington to the Secretary of State, dated

EXECUTIVE DEPARTMENT, E. FLORIDA,
ST. AUGUSTINE, *January 15th*, 1822.

"The enclosed certificates, Nos. 12 and 13, will close all the papers which I have thought it necessary to send on, respecting the archives.

"If the government will direct me what to do with the papers, determined to be *returned* to the ex-governor and escribano, I will make the disposition accordingly."

No. 12.

Colonel Forbes to Mr. Worthington.

ST. AUGUSTINE, *January* 8, 1822.

SIR: After the archives and documents had been investigated under your excellency's commission of the 1st of October, and the papers separated, I communicated your orders to the escribano, Mr. Entralgo, to deliver him those taken from his office, which, it was deemed, the United States did not claim under the treaty; also, I made a similar offer to Mr. Arredondo, the general attorney of the ex-governor, Colonel Coppinger, he being absent, to deliver those taken from him, which it was thought proper not to retain; they both declined taking them; so they remain safe, but subject to future orders. I made the offer in writing, as one of the commissioners and as marshal of the United States for the Floridas, agreeably to your written directions.

I am, &c. &c.

JAMES G. FORBES.

His Exc'y W. G. D. WORTHINGTON,
Secretary and acting Governor of East Florida.

No. 13.

Mr. Law to Mr. Worthington.

ST. AUGUSTINE, *January* 14, 1822.

SIR: Of the archives and documents taken into the American possession under your commission of the first of October, from the Spanish escribano, Mr. Entralgo, part of five boxes are retained as belonging to the United States under a fair construction of the treaty; and the remainder of the five boxes determined by the commissioners to be returned to Mr. Entralgo. From the Spanish ex-governor, Colonel Coppinger, part of six boxes are retained under the above construction, and the remainder of the six boxes determined as above to be returned to Colonel Coppinger. Both Colonel Coppinger and Mr. Entralgo, I learn, decline taking those offered to be returned; I would, therefore, advise some final disposition to be made of them, either by yourself or the general government, as they may be subject to casualties while in our possession. To those papers retained, Americans, Spaniards, and all persons interested, have daily access. Those determined to be returned, remain nailed up, and no one suffered to handle or inspect them.

Yours, respectfully,

EDMUND LAW, *Alcalde.*

W. G. D. WORTHINGTON,
Secretary, and acting Governor of East Florida.

Capt. Bell to the Secretary of State.

WASHINGTON CITY, *January 5th*, 1822.

SIR: I had the honor to command the detachment of the United States' troops, on the 10th of July, 1821, the day on which an exchange of flags took place at St. Augustine, the capital of East Florida, under the late treaty with Spain. On the day following, I was, by commission from General Jackson, Governor of the Floridas, vested with all the powers of the late Spanish Governor Coppinger, which commission I received through the hands of the American commissioner, Colonel Butler, with other documents and instructions from my government in the discharge of the duties of Provisional Secretary of the province, until the arrival of Mr. Worthington, who had been duly appointed by the President of the United States. Colonel Butler, the commissioner, shortly after set out for Pensacola. Among the documents left by him for my government and information, were extracts of the official correspondence between the two commissioners on the subject of the archives and documents relating to individual property, and the inhabitants of the province; by which it was agreed, that they were not to be removed from St.

Augustine, but to remain precisely as they were until the doubts arising on the part of the Spanish commissioner should, by reference to the Spanish authorities on his part, and to the American authorities at Washington, on the part of the American commissioner, be settled. No inventory of the archives, documents, and papers, were ever made to my knowledge; none was delivered to me by Col. Butler. After his departure, a number of the inhabitants waited on me, to know the situation in which the archives and documents relative to property and rights in the province had been left by the American commissoner, and if he had obtained possession of them? On being informed that they were said to be in the possession of the Escribano, a Spanish notary and officer, until the doubts arising as to the delivery of them should be settled by the respective Spanish and American authorities, they appeared greatly dissatisfied, expressed themselves in a manner, and in terms, which led me to believe they had no confidence in the Spanish officers, and finding no inventory had been made of the archives, declared, from their knowledge of the manner in which these documents were filed, there was no security that the whole of the documents would ever be delivered; that important papers might be sent to the Havanna, if not already sent; that others might be placed on the files; in fact, that the door was open to almost every species of fraud in the office, by which individual rights would be violated, and the public lands would be granted away without the possibility of detection. They strongly advised me, for the above reasons, to take possession of them. This, I informed them, I was not authorized to do, but things must remain as they were, until I received further instructions. Boxes were already made in which these documents were to have been packed, to be sent to the Havanna, but they were in the public store and under my charge. A Spanish armed schooner sailed some time after the transports with the troops, for the Havanna; as also did another vessel, which carried the Treasurer of the province; it was said, many boxes, supposed to contain documents, were taken by this officer. The whole of the archives or bureau of the City Eugenia, which contained important documents relating to individual rights in the city, public squares and vacant lands, were removed or not found at the time of taking possession of the documents and papers found in the offices of the late Governor Coppinger and Escribano; there was a vessel almost ready to sail for the Havanna; boxes were ready in the Governor's house, in which the documents found in his office were to have been placed; this, I believe, he admits in his protest, although the papers have been seized, a sufficient examination has not been had to determine if all are there which were expected to be found. I frequently heard the persons appointed to examine them, say, that they did not find in the Governor's office those papers which are usually kept in this office; whether any were removed after the 23d June, which were embraced in the correspondence, I am not able to say. I have no reason to believe there were, although the inhabitants interested were constantly complaining of the situation

in which they were left, and were paying great fees to the officer to obtain evidences of their papers being in the office. I must further state, that the notary Don Juan de Entralgo had declined to take the oath of allegiance to our government; that, Governor Coppinger was respectfully applied to by me to deliver up the papers peaceably, before any resort was had to force, and when the papers were put into the hands of certain persons appointed to examine them, with directions to separate private papers from documents relating to the province, Governor Coppinger was given to understand, that he, or any agent on his behalf, might attend the examination. As far as the examination has proceeded, many papers have been separated from the public documents, put into boxes, and reported to Mr. Worthington, for the purpose of being returned. By the citizens having property, and residing within the province, the conduct of the American officers in taking the papers, was generally approved of.

Most respectfully, I am, sir,

Your obedient servant,

JOHN R. BELL.

Honorable JOHN QUINCY ADAMS,

Secretary of State.

General Jackson to the Secretary of State, 22d January, 1822.

(Enclosures.)

C. Same to Captain Bell . . .	1st September,	1821.
D. Same to Mr. Worthington, . .	13th August,	do.
E. Governor Coppinger to Col. Butler,	23d June,	do.
E. Colonel Butler to Governor Coppinger,	26th June,	do.
Same to same	3d July,	do.
Governor Coppinger's answer . .	4th July,	do.
Colonel Butler's reply, . . .	5th July,	do.
Same to Captain Bell, . . .	11th July,	do.
EE. Same to General Jackson, . .	21st January,	1822.
No. 3. Mr. Worthington to Gen. Jackson	9th November,	1821.
No. 4. Mr. Reynolds to same . .	Without date.	
No. 5. Gov. Worthington to Messrs. Bell, Forbes, & Law, . . .	7th November,	1821.

General Jackson to Secretary of State, 31st January, 1822. Extract.

(Enclosures.)

Secretary Walton to General Jackson,	7th	January,	1822.
Same to Colonel Clinch, . . .	21st	do.	do.
Same to Captain Wilson, . . .	2d	do.	do.
Parole of honor to Villiers and Guillemard.			
Memorial of Villiers and Guillemard.			
Order of arrest continued.			
No. 2. Certificate of Henry Wilson, .	6th	January,	1822.

General Jackson to the Secretary of State.

NASHVILLE, *January* 22, 1822.

SIR: Your letter of the 1st instant reached me a few days since, in which you advise me of the receipt of mine of the 22d November, with its enclosures. I had also the honor to receive a copy of your communication, dated 2d November, to the minister of Spain, together with the translations of two letters from said minister, addressed to the Secretary of State, and transmitted to me by direction of the President of the United States. You inform me that the definitive answer to these letters will be deferred until you shall have the opportunity of obtaining my reply, with any remarks I may be disposed to make, on the communications of the minister of Spain.

I sincerely regret that Don Joaquin de Anduaga's letter of the 22d November, had not been transmitted at an earlier period, as it will be necessary, in my reply, to refer you to two communications of Capt. Bell, of the 31st July and 4th August last, and to Mr. Worthington's letters on the subject of the archives at St. Augustine; the first

of which are on file in the Executive office at Pensacola, and the last I forwarded to you when I was informed by Dr. Bronaugh that my resignation was accepted, on the 1st ultimo, not expecting to have any further use for them. Immediately on the receipt of your letter, however, I wrote Mr. Worthington, requesting him to forward you certified copies of his communications as promptly as practicable, and have adopted the same measure in relation to those of Captain Bell, although I had been advised that he had transmitted duplicates to you from St. Augustine. To these documents I must refer you, relying upon my answers thereto, and my own recollection, for their contents, and accompanying my reply with such vouchers as are within my reach, believing there will be ample testimony in your possession to enable you to rebut the statements of this minister of the Spanish government.

Upon the subject of seizing the papers at St. Augustine, you observe that the Spanish minister dwells with much earnestness on the agreement which had been made between Colonel Butler and the late Governor Coppinger concerning these papers, and requests to be informed whether this agreement was known to me at the time the order was issued for demanding and receiving them; and, if so, to state the particular grounds on which I judged it necessary to resort to compulsory measures for obtaining possession of them.

In answer to this inquiry, I have the honor respectfully to state, that Colonel Butler, the commissioner appointed to receive the transfer of East Florida from the Spanish government, reached me on the 8th of August last, at Pensacola, and made his report. As soon as it was submitted to my examination I was entirely satisfied that neither Coppinger on the one hand, nor Butler on the other, had any authority, either under the treaty or their instructions, to enter into such an agreement relative to the archives, which were, by a positive stipulation between the two governments, to have been delivered over, with the country, to the constituted authorities of the United States. The treaty was imperative, and vested the parties with no discretion on the subject. Believing, however, that the course adopted by Colonel Butler was perhaps the only one that could have been pursued, without the employment of force, to preserve the documents; and notwithstanding I was perfectly satisfied that Coppinger had, on his part, violated both the treaty and the order of the Captain General of Cuba, yet I felt disposed to leave the archives precisely in the same situation in which Colonel Butler had placed them, under his agreement with Coppinger. I was induced to take this course from a wish to create no unnecessary difficulties, and from a hope that the Spanish officers would comply with their arrangement, and permit the papers to remain unmolested until the arrival of the President's instructions in regard to their final disposition.

This minister states that the commissioners, Butler and Coppinger, stipulated that the artillery and archives were to remain, the first in deposite, in possession of the Anglo-American commissary, and the last where they were, and without the possibility of their being taken

away to the Havanna. He does not say what was their situation, but it will be recollected that the alcalde was their keeper. Nor does he tell you that Don Jose Coppinger permitted them to be picked, and culled, and taken away, in violation of his solemn pledge and agreement, as you will see by a reference being had to Capt. Bell's letters to me of the 31st July and 4th August, 1821, duplicates of which I am advised are in your possession.

When I received these letters from Capt. Bell, who exercised provisionally the powers and authorities of Secretary of East Florida, before the arrival of Mr. Worthington, I acknowledge that my indignation was very much aroused. I felt that it was my imperative duty to protect the people of Florida in the enjoyment of the right secured to them expressly under the treaty. I was bound to act on the occasion. The agreement respecting the archives, although void *ab initio*, for the want of power, had been outrageously violated by Coppinger, or with his connivance; and the evidence of individual rights, secured to the citizens, were about to be fraudulently conveyed away, after he had pledged himself to Colonel Butler that they should not be removed from that place, and should remain precisely as they were.

The verbal report of Colonel Butler, as communicated in my letter of the 4th August last, affords a clue to the motives of Colonel Coppinger, in attempting to practice this base deception. For the last six months previous to the transfer of the country, it is believed he had been engaged in issuing surreptitious grants, for large quantities of land in East Florida. It became necessary, that they should be taken to the island of Cuba, for the purpose of consummating the titles. These were, no doubt, the documents which were picked and culled from the balance, to be transported to the Havanna; as Coppinger was convinced, that the fraud would be inevitably detected, if they should be surrendered to the American authorities. This explains the reason why, and wherefore, they were not delivered over to our commissioner in the first instance; and forms the basis of the confidential communication made to Colonel Butler on the 3d of July last, advising him that a large portion of these archives, relating to private property, were packed up for removal to Cuba; and which gave rise to his letter to Colonel Coppinger of that date, as will appear by the enclosed extract, marked E.

Speaking of the correspondence between Cols. Butler and Coppinger, Don Joaquin de Anduaga remarks, that "by the before mentioned correspondence, it appears, that doubts had arisen whether the artillery, and certain archives ought, or ought not, to be delivered over to the United States." With due deference, I would ask, could any doubts exist, as to the archives, under the second article of the treaty? No. Could any doubts be entertained relative to the archives embraced in the instructions of his Catholic Majesty, or the instructions given by the captain general of Cuba, to Don José Coppinger, colonel, and commanding the Spanish forces at St. Augustine, and who was charged with the delivery of the country, and all documents re-

lating to the property and sovereignty of the country ceded? It is presumed not. In his letter to Col. Forbes of the 16th May, 1821, the captain general of Cuba says, "respecting East Florida, where there ought to be found all her archives, Governor Mahy would direct that Governor, as entrusted by him with the important commission, to make a formal delivery to Mr. Forbes, of that province, as well as of the documents belonging to it." "A similar despatch would be addressed to the commandant of West Florida." Here is a positive declaration, that such instructions were, or should be given, to Governor Coppinger, for the delivery of all the archives included in the stipulations of the treaty. Contrast this statement of the captain general of Cuba with the answer of Governor Coppinger to colonel Butler's letter to him, dated July 3d, 1821. "Confining myself," he says, "to a compliance with the treaty, and the orders of my government," (which he informed colonel Butler, verbally, prevented him from delivering the archives) "their literal sense is the only guide to my endeavour in the execution, and when any doubts arise, I consult them, with that frankness necessary to ascertain my course, and warrant my responsibility."

From this exposition, no one can fail to discover a striking contradiction between the captain general Mahy and Governor Coppinger; the former assuring Colonel Forbes, that he would direct Governor Coppinger to deliver over the documents to the American authorities, and the latter asserting, that, "as an individual, he believed, they should be given over." See EE. But, that the orders of his government prevented him from performing that duty. We can find no excuse, either for the captain general, governor Coppinger, or Colonel Callava, for not complying with the orders of their superiors, and with good faith carrying into effect the 2d article of the treaty, by delivering, and being prepared to deliver over, all the archives and documents appertaining to the property and sovereignty of the Floridas. Instead of this, the captain general does not deliver them at Cuba; Coppinger, contrary to his orders, was preparing to convey them away, in a clandestine manner, in violation of his agreement and solemn pledges, until arrested in his faithless conduct, by Colonel Butler; and Callava, whilst professing to surrender all the archives, &c. was wickedly and treacherously attempting to carry away the testamentary papers of the heirs of Vidal, and other documents, which were the evidences of claims to private property, in the country ceded to the United States.

The unjustifiable delays and evasions of the officers of Spain, in withholding the archives and documents, of which the delivery had been expressly stipulated by treaty—vouchers indispensable to the United States, for the dispensation of private justice, and the establishment of private right, but entirely useless to Spain—could not but impress upon me the belief, that they were intended to subserve the purposes of injustice, fraud, and oppression. The attempt to carry away a number of those documents from St. Augustine and Pensacola, in a clandestine manner, was considered as a flagrant vio-

lation of the treaty; and I began to entertain the opinion, that a systematic combination had been formed amongst the officers of Spain to deprive the honest citizens of the country of all the evidences of their right to property, secured to them by the provisions of the cession.

Under these impressions, and believing myself vested with legal authority to protect the rights of the citizens, I was urged, by the most imperative duty, to exercise it in their behalf. Upon the receipt of Captain Bell's letters, before referred to, advising me that the archives at St. Augustine were picked and culled to be conveyed away, I forthwith wrote him, on the 1st September, 1821, the letter herewith enclosed, marked C, of which the following is an extract:

"I have this moment received your several letters of the 31st July and 4th August, with their enclosures, and regret that the shortness of time will not permit me to answer in detail. On the subject of the archives I will barely draw your attention to the second article of the treaty with Spain, according to which all archives or documents directly relating to the *property or sovereignty* of the country, are to be delivered by her. You will, therefore, forthwith, on the receipt of this, if not already in possession of them, take them into your possession, and place them in the hands of the alcalde for safe keeping; and who ought to be, like every other, a sworn officer under the government, and not a Spanish officer, owing no allegiance to the United States. All papers and documents in the possession of the cabildo, and, in course, in the possession of American, and not Spanish functionaries, are to be retained, and none of them permitted to be culled and taken away." "I am gratified with the friendly expressions of the cabildo of St. Augustine, but am sorry to find they have so entirely mistaken the sense of the proclamation. Nothing could be more absurd than that Spanish officers, as such, should administer the government. The true meaning is, that, whenever the incumbent will take the oath to support the constitution of the United States, and abjure that of Spain, and take the oaths of office, he shall be continued therein; that part of the proclamation which enjoins fidelity to the government of the United States would, otherwise, be nonsense, and the government has, at all times, the power to remove or dismiss him, and supply his place. But this will not be done, unless it be found that he is incompetent to his trust, or unfaithful; and, whenever either is the case, this power, for the benefit of the people, ought to be exercised."

Having previously addressed Captain Bell a letter, on the 13th of August, 1821, a copy of which is enclosed, marked D, and forwarded it to him by Mr. Bird, attorney for the United States in East Florida, I was gratified to find from his answer, that, before the receipt of either of my communications, himself and Mr. Worthington had taken the steps necessary to preserve the archives, and extend to the people of East Florida that protection which was secured and guaranteed to them under the treaty.

When it is recollected that the archives and documents relating to the property and sovereignty of the Floridas, were to be transferred with the country, agreeably to the stipulations of the treaty, and that Gov. Coppinger had been ordered to deliver those in East Florida, what indignation must fill every honest and honorable breast, when we learn, from the letter of the keeper of these papers at St. Augustine, that he claims them as private property, which he had acquired by purchase. From whom could this purchase have been made? From the king? No, because he had stipulated to surrender them with the country, to the American authorities. If bought at all, it must have been effected with the executive magistrate of the province. In either event, it must have originated in the grossest corruption, and was rendered null and void by the treaty between Spain and the United States.

Although Don Joaquin de Anduaga has taken occasion to heap upon me the most illiberal and indecorous epithets, he is challenged to substantiate a single instance, in which myself, or those acting under me, have not scrupulously executed every article of the treaty with Spain.

It appears that the minister of Spain considers his sovereign as having been insulted in the person of his Commissary, Col. Coppinger, at the time the seizure of the papers was effected; he insists that Col. Coppinger was entitled to all the privileges and immunities of a public officer of Spain, in consequence of his being recognized as such, in doing and transacting business with Capt. Bell. The fact was, that Capt. Bell was not vested with any diplomatic, or commissarial powers, and any such recognition on his part, was as ineffectual as it was without authority.

By turning to the act of cession, executed by Col. Butler, and Jose Coppinger, it will be distinctly seen, that neither of those persons retained any powers as commissioners, after the date of that instrument. If this was the case, it must be equally evident, that neither Capt. Bell, nor Mr. Worthington could have possessed such powers, at the period to which the Spanish minister has alluded. Col. Jose Coppinger being the commander in chief, and Governor *ex officio* over East Florida, he was charged, under the treaty, with the delivery of the country, and the withdrawal of the Spanish troops. The moment these duties were performed, both his and Col. Butler's powers as commissioners ceased. This event took place on the 10th July, 1821, when the Spanish authorities ceased the exercise of their functions, as is demonstrated by the following extract from the act of cession.

"There has been verified, at four o'clock of the evening of this day, the complete and personal delivery of the fortifications, and all else of this aforesaid province, to the Commissioners, Officers, and troops of the United States, and, in consequence thereof, having embarked for the Havana the military and civil officers, and Spanish troops, in the American transports provided for this purpose, *the*

Spanish authorities having this moment ceased the exercise of their functions, and those appointed by the American Government having began theirs, &c."

The surrender of the provinces had been completed, and the occasion which created commissioners ceased to exist. The authority and troops of Spain were withdrawn, and the United States in entire and rightful possession of the country. The six months had also transpired within which the treaty provided the transfer of sovereignty should be made, as well as the evacuation of all the Spanish officers within the Floridas. Colonel Coppinger remaining after the occurrence of these events, could no longer be considered as entitled to the privileges and immunities of a public agent. He could only be viewed as a stranger, permitted to reside in the Floridas, "amenable to the common judicial tribunals, but who, conformably to the Spanish laws, existing before the cession of the province, would have been liable to removal from it, or to imprisonment, at the discretion of the Governor, for the mere act of being there."

These disclosures, I hope, will exempt me from the criminal charge which Don Joaquin de Anduaga has preferred against me, of having trampled upon the law of nations, and the law of every civilized country. If the detection of treachery, and prevention of fraud, the security of the rights of the citizen, and a scrupulous adherence to the articles of the treaty, which both governments were sacredly bound to fulfil, are to be considered atrocities, I have to observe, that I glory in the charge, and give this further assurance, that it is the course which I shall always pursue. I would inquire of this minister, whether the law of nations protects the agents of Spain in the open violation of the treaty, the rights of individuals, and the orders of their government? Does this law sanction the non-compliance with the most solemn engagements, by which the rights of individuals were to be sacrificed, by depriving them of those evidences of property stipulated to be delivered over with the country ceded? If so, then is every treaty a perfect mockery, and the law of nations becomes the authority for every species of fraud and corruption. Coppinger and Callava might not only have carried away all the archives of the country, but also the negroes, or moveable property, and their agency would have secured them from merited punishment.

To the remark of the Spanish minister, "that the more my conduct is considered, the more evident it is, that my sole object has been to insult Spain," I have to observe in reply, that it is unjust; I challenge Don Joaquin de Anduaga to establish the fact necessary to authorize such a conclusion. If I know myself, I can declare, with the utmost confidence, that I have never entertained any thing like national antipathies, and that my conduct on no occasion has ever been influenced by such base and unmanly considerations. All the measures of my administration, whilst Governor of the Floridas, were founded upon the principles of justice; the object of which was to secure to the United States, and the people who were citizens of the ceded provinces, those rights which were guarantied to them

under the cession, and which the officers of Spain had wantonly violated, in contravention of the treaty, the positive orders of their superiors, and their own solemn pledges and engagements. The virtuous and honorable Spaniard claims the same share of my respect and confidence as the citizens belonging to any other nation. I rejoice in the regeneration of Old Spain, and in the independence of the American colonies, and hope that both may free themselves from that misrule and oppression with which they have been cursed, for centuries past, under former governments.

The language used throughout the letters of the minister of Spain, and the charges therein contained in relation to myself, cannot but be viewed as an insult to my government, to the American people, and to the officer whom he has endeavored to cover with odium and disgrace. It is derogatory to that comity and decorum which should always characterize diplomatic communications, and which are essential to the harmony and friendly intercourse of nations. In reply, I confidently trust, that the President of the United States will take such a stand, as shall secure the respect due from foreign ministers to his exalted station, to the officers of the government, and to the nation over which he presides.

It is a subject of remark, that I have been the object of Spanish calumny and virulent animadversion, ever since the transactions of the Seminole war. This spirit of hostility is to be discovered in the observation of governor Mahy to Col. Forbes; in the letter of the latter to the Secretary of State, of the 20th May, 1821; in the protests of Cols. Coppinger and Calava; and has pervaded all the diplomatic communications of Spanish ministers, subsequent to the period to which I have alluded. Although such a course is insulting to myself, to the executive, and to the American people, I have never deemed it of sufficient importance to induce me to complain.

Feeling a confidence in having always discharged my duty, whilst in the service of my country, I disregarded the abuse and vituperation of Spanish agents, from a belief that my government would vindicate its honor and dignity. This, I flatter myself, will yet be accomplished in due time. A considerable portion of my life has been devoted to the happiness, honor, and glory of my country, and when my conduct has met the approbation of the government, I have a right to expect that it will resist any attempt to slander my reputation. Notwithstanding I solicit the most free and unrestrained investigation into all the measures of my public life, by those to whom I am responsible, it is conceived that the same latitude should not be granted to the ministers of foreign powers. Such an interference is rude and indecorous, and should be resented on all proper occasions. This, it is believed, is not due to me alone, but to the President and the nation.

I am, sir, with sentiments of great respect,
Your most obedient and humble servant,
ANDREW JACKSON.

Hon. JOHN QUINCY ADAMS,
Secretary of State.

C.

General Jackson to Captain Bell.

PENSACOLA, *September 1st*, 1821.

SIR: I have this moment received your several letters of the 31st July, and 4th August, with their enclosures, and regret that the shortness of time will not permit me to answer in detail. On the subject of the archives, I will barely draw your attention to the 2d article of the treaty with Spain, according to which, all archives and documents directly relating to the *property*, or *sovereignty* of the country, are to be delivered by her. You will therefore, forthwith, on the receipt of this, if not already in possession of them, take them into your possession, and place them in the hands of the alcalde for safe-keeping, and who ought to be, like every other, a sworn officer under the government, and not a Spanish officer, owing no allegiance to the United States. All papers and documents in the possession of the Cabildo, and of course in the possession of American and not Spanish functionaries, are to be retained, and none of them permitted to be called and taken away.

I am gratified with the friendly expressions of the Cabildo of St. Augustine, but am sorry to find they have so entirely mistaken the sense of the proclamation. Nothing could be more absurd than that Spanish officers, as such, should administer the government. The true meaning is, that whenever the incumbent will take the oath to support the constitution of the United States, and abjure that of Spain, and take the oaths of office, he shall continue therein. The part of the proclamation which enjoins fidelity to the government of the United States would otherwise be nonsense, and the Governor has, at all times, the power to remove, or dismiss him, and supply his place. But this will not be done, unless it be found that he is incompetent to his trust, or unfaithful, and whenever either is the case, this power, for the benefit of the public, ought to be exercised.

I have read Mr. Fitche's report to you, and have discovered that he has viewed the constitution of Spain as in full force in the Floridas. This is not the fact. On the 4th May, 1814, it was annulled, and every act and decree passed in pursuance of it, declared illegal and void. It was never re-established until 1820, after the Floridas had been ceded to the United States. Of course, Spain could not legislate for a country not her own. The first act, after the re-establishment of the Cortes, was, to recommend the ratification of the treaty of cession, and no decrees of the Cortes were ever promulgated in the Floridas, until after the ratification of the treaty. It would be strange indeed if Spain could legislate for a country whose sovereignty and property had passed out of her hands. The act of Congress for the occupation of the Floridas, and my proclamation, will, I think, clearly shew, that the Spanish constitution was not taken into view. They are precisely similar to those which preced-

ed the occupation of Louisiana. Besides, the constitution merely provides for a form of government, of which the judiciary is a part, and a part which cannot be separated without being imperfect; and even this judiciary was never established in the Floridas by decree of the Cortes, not to speak of its entire incompatibility with the nature of our constitution and government. The mere circumstance of uniting in the same person the different offices of Captain General, Intendant, and Provincial Governor, and leaving it to the President to prescribe the manner in which the powers of the existing officers shall be exercised, shews that there was no intention to pursue the Spanish plan of government.

The ordinances heretofore sent you are intended to distribute and organize a government, approximating as nearly as practicable to that of Spain, and formed out of the powers with which the Spanish officers were clothed. It must be borne in mind, that although Spanish laws and usages are in force, excepting so far as they may be expressly altered, yet the Spanish government has ceased.

Mr. Fitche's ideas, as to the powers of the Judge appointed by the President, so far as relates to the carrying into effect the acts extended over the Floridas, are correct, but the Judge can exercise no other powers, unless specially given him by the instructions of the President. Such instructions have not been given, and I doubt very much whether the President could legally give them. There is no doubt, that the person exercising the powers of the Governor of East Florida, can exercise all the powers exercised under the King of Spain, at the time the country was ceded. The Governors of the Floridas exercised judicial powers as late as the 10th July, 1820. This was up to the re-establishment of the Cortes, and the ratification of the treaty; and to the very delivery of the country, admiralty jurisdiction.

On the subject of the archives, I have again to repeat, that you will take them into your charge. Governor Coppinger's powers having ceased with the delivery of the country, he cannot be considered, as respects the United States, any more than any other individual. He is not recognized in any official capacity; he has, therefore, no right to demand any papers in the possession of the United States' officers, or to hold any official correspondence on any subject arising since the delivery, by which act his official character, as to us, ceased; and even the subjects of difference, which arose before the delivery, were referred to the respective governments.

Captain Willis is now here, on his way to St. Augustine, but, fearful of not being able to reach that place before the second Monday in this present month, he has therefore halted, to hear from you, whether the clerk's office for the county of St. John's is kept open for him. If it is, he will repair there, as soon as advised of it, at this place, and you will please to address him to the care of Cary Nicholas, postmaster, Pensacola.

On the subject of Indian Agent, I have this day addressed a letter to the Secretary of War on that subject, enclosing Mr. Penniers' letter to him, and Mr. Dexter's.

Should you know where Mr. Penniers' is, please to inform him, that I have been waiting for him to report to me in person, and that I have a letter from the Treasury Department for him.

I am, with sentiments of respect,

Your most obedient servant,

ANDREW JACKSON,

Governor of the Floridas, &c.

Captain JOHN R. BELL, or to such officer as may be exercising the government of East Florida.

D.

Governor Jackson to Wm. G. D. Worthington, or Captain J. R. Bell, exercising the powers of the Governor of East Florida.

PENSACOLA, *Aug.* 13, 1821.

SIR: On the 28th ultimo, I despatched an express, Capt. Hanham, to you, with sundry ordinances that I found it necessary to adopt for the better organization of the Floridas. The ordinances are only a declaration of what the Spanish law really is, and what its operations under the Cortes would have been—The constitution of Spain, providing for the trial by jury in criminal cases, although never extended to the colonies, because the treaty ceding the Floridas was concluded before the constitution was adopted and carried into execution in Spain.

When I took possession here, I found nothing but an Alcalde, which was filled by a Spanish military officer, who could not therefore hold it under our Government. I appointed an Alcalde, Judge Brackenridge, in whose custody all archives received were placed. Finding that a Cabildo had once existed here, I ordained the re-establishment of it, in that of a Mayor and Aldermen of the city, adding a board of health to it; and there being no judge, I created a county court, with the powers that this court would have held under the constitution of Spain, and that of the United States.

Col. Butler reached me on the 8th instant, and reports that he found at St. Augustine an Alcalde, a Cabildo, and a Judge, all in operation. This will afford you great relief in carrying into effect the ordinances sent you by Capt. Hanham. In every instance where the incumbents in office will take the necessary oaths of office, and are, in your opinion, of good moral character, and fit for the office, you will continue them. I have found but few here of the Spanish inhabitants, that would accept an office under our Government, not having determined of themselves whether they will become citizens of the United States, and believing that taking an oath of office

would be considered their election to become citizens, have in most instances refused.

It is necessary on the change of Government, that all officers who are to execute it under the United States, should take the necessary oaths of office, and when this is refused, you will fill the vacancies thus occasioned, by new appointments; even when the old incumbents will remain, and especially in the latter case; for as Spanish officers they cannot execute the government under the United States.

This will be handed you by Mr. Bird, who has the appointment, by the President of the United States, as attorney for East Florida.

I am, with great respect,
Your most obedient servant,
ANDREW JACKSON.

E.

Extract of a letter from Governor Coppinger to Colonel R. Butler, under date June 23, 1821.

"I answer your esteemed note of yesterday, assuring your excellency, as I mentioned in my letter of the 19th, that, until I received the answer of my government, on the doubts arising on the delivery of the public archives, relating to the individual property of the inhabitants of this province, and on which I have, on this date, wrote for information, they shall not be removed from this place, and shall remain precisely as they are."

"I shall likewise remain here until this point is decided, as well as that on the artillery, on which I have made my report; and, in the mean time, have formed an exact inventory of the documents contained in these archives."

Extract from Colonel Butler's letter to Jose Coppinger, Governor, &c. dated June 26, 1821.

"The subject of the archives relating to individual property, I consider perfectly understood between us, and will, therefore, remain silent on that head, until you receive the further instructions of your government in relation thereto."

Extract from Colonel Butler's letter to Governor Coppinger, dated July 3, 1821. which was predicated upon information received confidentially, that a large portion of the archives, relating to private property, were packed up for removal to Cuba.

"That a more perfect understanding should exist between us, in relation to the archives, which are embraced by the treaty of cession,

and relating to individual property, is the object of this communication."

"I should, upon mature reflection, consider myself wanting in my duty to the inhabitants of this province, who are about to become citizens of my government, if I withheld any statement in relation to the archives, which might lead to the removal of any document, that would be of importance to their security, and which my government considers as included in the treaty. The following records are deemed indispensable to this object, viz: the royal or other orders, authorizing the governor of this province to issue grants for lands, lots, or squares; the evidence of indemnity offered by Great Britain to her subjects, who might leave their property in this province and retire to her territory, after the cession to Spain; the proclamation of the Spanish authorities, calling on those individuals to come and dispose of their property, or peaceably occupy it within certain periods, or the same would be confiscated; and the order of confiscation thereafter; the original records of all grants made in the province, either by his Catholic majesty, the captain general of Cuba, or the governors of this province respectively; the original records, relating to all trials and decisions, embracing individual property; and the original records relating to the execution of wills and administration of estates.

"The foregoing explanation is given to shew you, what I am bound to consider as the archives relating to individual property, and which are not to be removed from this place, until the decision is had on the subject by our respective governments."

The answer by Governor Coppinger.

"The note your excellency was pleased to send me yesterday, in order to point out which are the records comprehended in the treaty of cession, and appertaining to private property, I have duly examined, and have to answer, that, confining myself to a compliance with the treaty, and the orders of my government, [which, he informed colonel Butler verbally, prevented him from delivering the archives] the literal sense is the only guide to my endeavour in the execution, and when any doubts arise, I consult them with that frankness, necessary to ascertain my course, and warrant my responsibility.

"Thus actuated, I early informed your excellency of the measures which I had taken, with respect to the public archives, or Escribano office, or records bearing on private property of the inhabitants of this province, measures to which your excellency was pleased to accede."

"It now appears, that your excellency advances pretensions to other documents, that, I am sorry to say, are, according to my conception, excluded from the delivery. I do not comprehend the ground upon which you found your demand; therefore, and in order to report to my government by the earliest opportunity, that it may decide with your's on these points, and at the same time, on those others

in question, your excellency will excuse my not entering into particular observations on each of them."

Extract of Colonel Butler's answer, dated July 5, 1821.

"In answer to the note of yesterday, which your excellency has done me the honor to address to me, I beg leave to remark, that the only ground assumed on my part, in making the communication of the 3d instant, was that of the faithful performance of my duty to my government, and the individuals who are about to become citizens thereof; and I did not expect you to enter into particular observations, on the subject of that letter, but I wished to give you timely information of what documents I considered to be the archives in our arrangement, and would be esteemed, under the treaty, sufficient to guarantee the possession of the inhabitants in their property, and that they might not be removed until the decision was had on the subject, when I could adopt such further amicable measures as are warranted by my instructions."

"If I comprehend your excellency aright, it is, that you will communicate a copy of that letter to the captain general of Cuba."

Extract of Colonel Butler's letter to Captain J. R. Bell, dated St. Augustine, July 11, 1821.

"The foregoing extracts are given you as the evidence of the actual situation of the archives, relating to private property, and the decision of the government of the United States must determine the necessary steps to be taken thereon."

"The balance of the above letter relates to subjects unconnected with the archives."

ROBERT BUTLER.

E. E.

Colonel Butler to General Jackson.

HERMITAGE, *January* 21, 1822.

SIR: On reading the correspondence between Colonel Forbes and the Captain General of Cuba, I find a promise, on the part of the latter, that the Governor of East Florida would be ordered to deliver over the archives to the American authorities; and this duty not having been performed, I consider it proper to advise you, that, in the month of June last, Colonel Coppinger, late Governor of East Florida, stated to me, in a conference had on the subject of the delivery of the archives relating to individual property, that, as an individual, he believed they should be given over to the United States, but that

his orders prevented him from turning them over. I mentioned to him that I had heard a report, as a reason for not turning them over, that it would be the interest of the United States to destroy them, and remarked that I regarded not the source from whence it came, as it could alone spring from the most wicked and unprincipled heart. As there appears an absence of good faith in the execution of the late treaty, I give you this information for the benefit of the government.

I have the honor to be, very respectfully,

Your most obedient servant,

ROBERT BUTLER,

Late U. S. com. in East Florida.

No. 3.

Mr. Worthington to General Jackson.

ST. AUGUSTINE, *November* 9, 1821.

SIR: I have the honor to acknowledge the receipt of your highly esteemed favor of the 1st ultimo; its delay may be accounted for from this remark on the envelope, "missent to and forwarded from Washington City, October 24th, 1821."

Your approbation of my humble but honest exertions to anticipate and fulfil your intentions in the organization of this government, I receive with sentiments of no ordinary sensibility; I assure you I had difficulties to contend with, which, had they have assailed me from a legitimate quarter, I should not have valued them "a pin's point," but coming from a point of the horizon where I looked for only invigorating and cheering sunshine, it was peculiarly calculated to diminish and enervate my powers and official weight. I saw the whole ill policy with regret, but not dismay. I was determined the Spaniards should not see and triumph in the spectacle of the Americans quarrelling amongst themselves; under the blessing of Heaven, I felt I could weather the storm, and I was conscious of your support. Your letter before me has shewn I was not mistaken.

The affair of the Government House is handsomely settled, as you will see by my correspondence, predicated on your opinion, with Col. Eustis, marked Nos. 1. 2. To shew you that I was uniform in my sentiments respecting the harmony which ought to exist between the civil and military authorities, your high encomium of which I am proud, I enclose you two letters marked Nos. 3. 4. I would indeed give a mass of private evidences of this matter; but I take my leave of it, I hope forever, and sincerely pray your pardon for being so troublesome on such an affair.

I thank you for your advice on my probable intercourse with the Indians; I shall be governed by it literally. I intend, if practicable, to prepare a splendid talk for them; but they shall understand two things at least, very distinctly: *The non-natives must return amongst*

the Creeks, and the natives, if they stay in Florida, must be concentrated.

I sincerely hope, sir, that the visit of yourself and family to Tennessee will be as agreeable as it is no doubt judicious, and as for myself, I will endeavour to merit the additional proof of confidence which you have reposed in me during your temporary absence. Should you pay us a visit here, we will try to make the best fixture we can; but the yellow fever has sadly cut us up; even now, it rages; God knows when it will stop; the first black frost, they say, is a certain bar to it; that may not come till January, if then. Yesterday at my room, in the shade, the thermometer stood at 72; this is as cool as we have had it; at one P. M. I put it in the sun, and in ten minutes it rose to 105, so that I really dont know when we shall get rid of this plague.

I will now, sir, take leave to lay before you the remainder of the proceedings respecting our taking possession of the archives, &c. they are marked No. 5. Any further course which you, or the government at Washington, may direct concerning them, I will adopt, and in the interim, if any thing shall suggest itself to me, as necessary to be done in the premises, I will progress in it.

The Ex-governor Coppinger, like his compeer Callava, I see, by a Charleston paper, publishes the proceedings as an "outrage." No body who knows the Spaniards, as the President, yourself, and many others of our countrymen, will pay much attention to these sorts of appeal. But, unfortunately for persons in public stations, who get into disputes with them, too many of our fellow-citizens take sides with them because they know nothing about them. If it should be thought best, it is probable some of us, who have been assailed, may follow the example set at Pensacola, and publish a statement of the transaction.

As to myself, I intended to do what was right and proper, and hope my proceedings may meet your approbation. My fortune amongst the Spaniards, on both sides of the equator, has been to incur their dislike and hostility; yet, I trust, not of the good, liberal, and high-minded on either side. Judge Du Val and Mr. Hackley not yet arrived.

With great respect, &c.

W. G. D. WORTHINGTON,

Secretary and acting Governor of East Florida.

His Excellency ANDREW JACKSON,

Governor of East and West Florida.

No. 4.

Mr. Reynolds to General Jackson.

ST. AUGUSTINE, *13th Nov.* 1821.

The other documents referred to by governor Worthington cannot be forwarded by this mail, as much of our time must be necessarily

devoted to the sick, the dying, and the dead. His Excellency residing in the Island, about a mile and a half distant, prevents me from giving him this information previous to the departure of the mail. But being desirous that nothing which is in readiness, should be delayed, I send you his letter to the commissioners, No. 5, upon their having closed the examination of archives and documents, &c. as far as was practicable under the circumstances.

Very respectfully your obedient serv't.

WILLIAM REYNOLDS,
Private Secretary.

His Excellency ANDREW JACKSON,
Governor of the Floridas.

No. 5.

Governor Worthington to John R. Bell, James G. Forbes, and Edmund Law.

ST. AUGUSTINE, *Nov.* 7, 1821.

GENTLEMEN: I had the honor to receive your additional report on yesterday evening of the 5th inst. on the subject of the records and archives.

I felicitate you on the conclusion of the difficult and laborious duties, which it was deemed necessary to assign to you, which you so cheerfully undertook, and so faithfully have discharged. I have been an eye witness to the open and assiduous manner in which you conducted the investigation, and have no doubt, when the voluminous mass which you have transmitted, shall be criticised, it will prove to be an honest and able examination.

Without detracting from the other commissioners, I must be permitted to pay a particular compliment to the President, who, during the whole tedious inquiry, while the epidemic raged in this city, with the most assiduous punctuality, presided at the board. I know the various duties of Col. Forbes, and the sickness of Mr. Law, prevented them giving such full attendance, as they otherwise would have done. I am perfectly satisfied with them and the whole board. You will be pleased to present my respects to the Secretaries, Messrs. Betham, Guy, Lynch, and Reynolds, for the faithful discharge of their duties.

And now, gentlemen, I must be permitted to say, notwithstanding the clamor which has been raised on a similar proceeding, respecting the archives at Pensacola, and even against the affair here, you have conducted and finished this commission in a manner to challenge the approbation of every disinterested and honest American

in our country, and, I hope, even of every unprejudiced Spaniard, who possesses one spark of true Castilian honor and sincerity.

With great respect, &c.

W. G. D. WORTHINGTON,

Sec. and acting Gov. of E. Florida.

JOHN R. BELL, JAMES G. FORBES,
and EDMUND LAW, Esqs.

Extract of a letter from General Andrew Jackson to the Secretary of State.

HERMITAGE, NEAR NASHVILLE, *January 31st*, 1822.

"Enclosed, I send you an extract of a letter from Col. George Walton, Secretary of West Florida, and charged with exercising the powers of governor of the same, in my absence, with its enclosure. Having received from the President of the United States his letter bearing date the 31st December last, post-marked at the city of Washington, the 9th instant, notifying me that my resignation was accepted, forecloses me from giving to Col. Walton any instructions officially, and have thought proper to refer him to the President for directions, as to the proper course to be pursued with regard to those Spanish officers. Col. Coulon is father-in-law to John Innerarity. Guillemard is a very base and treacherous man, being the same who piloted the British up Bayou Bienvenue, in the year 1815, then an officer of Spain, when the attempt was made upon New Orleans by General Packenham.

"I also enclose herewith, marked No. 2, for the information of the President of the United States, the certificate of Mr. Henry Wilson, a man of respectability, that goes to shew the fraudulent practices committed by the officers of Spain, with regard to land titles in the Floridas, and forcibly adds to the propriety of adopting the rule I have heretofore recommended, of appointing none to the office of commissioners for the adjudication of land titles in Florida, but those of honesty, integrity, and entirely disinterested. Should this rule not be adopted, great frauds will be imposed upon the United States."

Extract of a letter from Col. George Walton, Secretary of West Florida, and exercising the duties of Governor of the same, dated January 7, 1822, to General Jackson.

"A few days ago, two of the Spanish officers, Colonel Marcos de Villiers, generally called Colonel Coulon, and Arnaldo Guillemard, arrived here in a vessel from Havana. It was first intimated to me,

that they had resigned their commissions in the Spanish service; but when arrested by my order, and brought before me, they declared they had come with the intention of asking permission to attend in person to the settlement of their private affairs, and the removal of their families. They solemnly declared, that they had not returned in defiance of the proclamation, which they had promptly obeyed, and that they are ready to submit themselves to any order which should be taken in their case. For the present, I ordered them into confinement; but the calaboze being in no condition to receive them, for, excepting the officer's room, it has no fire-place; and as Coulon is a very old man, and his wife, at this time extremely ill, I thought it best to confine them in their own houses. The situation of old Coulon was such, that it would have been cruel to confine him in the dungeon with the common malefactors; and I could not, with propriety, make a distinction with respect to Guillemard. They then presented the enclosed memorial, in which they throw themselves on the mercy of the government.

"After these concessions, and the humble manner in which they sue to be permitted to remain, I was well convinced that you would have granted them the indulgence they prayed for. But, under my instructions, although a state of things was presented by the returning sense of propriety on the part of these people, different from what is contemplated in these instructions, yet, I did not consider myself authorized to go any farther than to continue them in the same confinement until further orders. I was well convinced that, while on the one hand you were determined to cause the government provisionally established over these provinces to be respected by every one living under it; and, as far as you were concerned, to cause the stipulations of the treaty to be enforced; yet, I also knew, from the magnanimity of your disposition, that you would instantly relent on the first manifestation of respect to the government, and submission to its determinations. This course, however, was not adopted by me until after consultation with Colonels Fenwick and Clinch, Major Denkins, and Judge Brackenridge, who all concurred in the opinion, that this was, under all circumstances, the most proper.

"The sixty days in the case of Innerarity having expired, application was made for execution; as nothing had been offered by him in the mean time, on any claims put in by creditors. He had got the papers on his receipt, as had been customary, and when called upon, found he was disposed to try his old tricks; on which I had a notice served upon him, to shew cause at eleven o'clock this day why an attachment should not issue. I had determined to commit him instantly, if the papers were not then produced; and to keep him in prison until they should be forthcoming. He took the hint, and left them with Mr. Cannon last night. A long memorial by Mr. Acre was presented, praying a review of the whole proceedings; but I shall pay no attention to it, and will now proceed forthwith to compel the payment of the money.

"I learn from St. Augustine, that the splendid talk alluded to in my last, has entirely failed, from the unaccountable and singular circumstance, of there being no Indians to listen to it, as none attended on the occasion, although a considerable concourse of whites, who had assembled on the beautiful plains of Atlathna, waited impatiently several days for their arrival."

Colonel Walton to Colonel Clinch.

PENSACOLA, *January* 21, 1822.

SIR: I have to request that you will direct that such portion of the troops under your command as may be necessary, shall be furnished, to carry into effect the proclamation issued by General Jackson in September last, requiring the departure of certain Spanish officers from the Floridas, two of the officers named in that proclamation having returned to this city without permission.

I have the honor to be,

Your obedient servant,

GEORGE WALTON,

Sec'ry W. Florida, and acting Governor of same.

Col D. L. CLINCH,

Commanding the post Pensacola.

To Captain Wilson, the officer of the day.

You are hereby commanded forthwith to apprehend and bring before me, at the Executive Chambers, Marcos de Villiers and Arnaldo Guillemard, that they may be dealt with according to law, for the contempt and disobedience of a certain proclamation issued by his Excellency General Andrew Jackson, on the 29th day of September, 1821, requiring the said Marcos de Villiers and Arnaldo Guillemard to withdraw themselves from the Floridas.

Given under my hand and private seal, there being no seal of office, this second day of January, in the year 1822, at Pensacola, in the province of West Florida.

GEORGE WALTON,

Sec'ry W. Florida, and acting Governor of same.

By the acting Governor,

SAMUEL FRY, *Private Sec'ry.*

EXECUTIVE CHAMBERS,

Pensacola, January 2, 1822.

Marcos de Villiers and Arnaldo Guillemard, having this day been brought before George Walton, Esquire, Secretary of West Florida, and acting Governor of the same, by virtue of his warrant, that they might be dealt with according to law for the contempt and disobedience of a certain proclamation issued by his Excellency Major General Andrew Jackson, on the 29th day of September, 1821, requiring the said Marcos de Villiers and Arnaldo Guillemard to withdraw themselves from the Floridas, and having been required to shew cause why they should not be committed to prison for the said contempt, were heard by counsel, and his excellency the acting governor not being fully advised as to the matter offered by them in excuse of their return to this province, granted further time to the said Marcos de Villiers and Arnaldo Guillemard, until to-morrow at ten o'clock in the forenoon, to shew further cause, &c.; and, in the mean time, they were ordered to consider themselves under arrest, and confined to their own houses by parole of honor.

To his Excellency George Walton, Governor of the Floridas, &c. &c.

The memorial of Marcos de Villiers and Arnaldo Guillemard respectfully represents:

That your memorialists, with other Spanish officers, were, by the proclamation of his Excellency Andrew Jackson, Governor of the Floridas, issued on the 29th of September last, ordered to quit the Floridas within three days thereafter, for reasons therein assigned. That your memorialists, in obedience to the said proclamation, withdrew from the said provinces, and repaired to the island of Cuba; and that, after being there some time, they found themselves compelled, from the situation of their private affairs, and the illness of a part of their families, to return to this country. That, in so doing, nothing was further from their intention than any disrepect to the constituted authorities of this province, whose determinations they declare themselves ready to observe and obey so long as they remain in the same. But they beg leave respectfully to represent, that, at the same time, they are Spanish officers, they and their families have also been inhabitants of this country for many years; and that they are owners of real and personal property here to a considerable amount. That, by the fifth article of the treaty, the inhabitants of the ceded provinces who may desire to remove to the Spanish dominions, shall be permitted to sell or export their effects at any time whatever, without being subject, in either case, to duties. That your memorialists are desirous to remove with their families to the Spanish dominions, and that, unless permitted to remain here, and superintend in person these necessary arrangements, they will be exposed to serious loss and injury.

Your memorialists therefore pray, that, taking the circumstances into consideration, and especially their solemn declaration that they return, not as Spanish officers, but as private individuals, on private business, and with every disposition to obey and respect the existing authorities, they may be permitted to remain for the purpose of settling their affairs, and making the necessary arrangements for the removal of their families.

MARCOS DE VILLIERS,
ARNALDO GUILLEMARD.

January 3, 1822.

EXECUTIVE CHAMBERS,

Pensacola, January 5, 1822.

I have maturely considered the memorial of Marcos de Villiers and Arnaldo Guillemard. Although well satisfied, from the known magnanimity of General Jackson, that, if he were present, the petition would be granted; yet, from the circumstance in which I am placed, I consider myself compelled to continue the present arrest and confinement till further orders.

GEORGE WALTON,
Sec'ry W. Florida, and acting Governor of same.

A true copy from the records,
SAMUEL FRY, *Private Secretary.*

No. 2. *H. Wilson's Certificate.*

PENSACOLA, *Jan.* 6, 1822.

I do hereby certify, that, some time last spring, I made a purchase of Henry Milchelet of this place, of a tract of eight hundred arpents of land on the Escambia, according to the plat of survey, accompanying the grant; and on a view of which plat, the grant was confirmed by the Intendant General of Havana. About two months ago, having taken an American surveyor to examine the lines, it was found that the Spanish survey was a mere fiction, it being absolutely impossible, from the nature of the ground, and the course of the river, to obtain a tract of eight hundred arpents, in any way agreeing with the description in the plat. When this was made known to Mr. Milchelet, and he was convinced of the fraud, he proposed to me to make a survey of any vacant lands I should choose; that he could have the plat of this land withdrawn from the title papers, and send the new survey to Havana, and have it certified by the Surveyor General, and inserted in the place of the first. This proposal I rejected with indignation, as dishonorable to me as an individual, and a fraud upon my Government.

HENRY WILSON.

The Secretary of State to Mr. Walton.

DEPARTMENT OF STATE,
Washington, 22d February, 1822.

SIR: The President of the United States having received and accepted the resignation of General Jackson, as Governor of the Floridas, I am instructed to inform you of his direction that you should continue to exercise all the authorities vested in you by General Jackson, during his absence from the province, until further provision for the government of the same shall be made by Congress, or until you shall receive further orders from the President.

I have received from General Jackson a letter enclosing an extract of yours to him, of the 7th of January last, relating to the case of the two Spanish officers, Marcos de Villiers and Arnald Guillemard, under arrest at their houses, for returning to Pensacola in disobedience to the proclamation of General Jackson.

As it appears by their memorial that they returned for the settlement of their private affairs, and the care of their families, and that they pledged themselves to pay due respect to the laws and the constituted authorities of the territory, the President directs me to instruct you to discharge them from arrest, and permit them to remain there.

I have the honor to be, with great respect, sir,
Your very humble and obedient servant,
JOHN QUINCY ADAMS.

GEORGE WALTON, Esq.
Sec. & acting Gov. West Florida.

The Secretary of State to Don Joaquin d'Anduaga.

DEPARTMENT OF STATE,
Washington, 5th April, 1822.

SIR: In the letters which I had the honor of writing you, on the 2d of November, and 31st of December last, you were informed that a definitive answer to the complaints against certain proceedings of General Andrew Jackson, while governor of Florida, which were contained in a letter to this Department from Don Hilario de Rivas y Salmon, before your arrival in this country, and in your letters of the 18th and 22d of November, would be given after the substance of those complaints should have been made known to General Jackson, and his explanations of the motives and considerations by which he had been governed in adopting the measures complained of, should have been received.

In performing this promise I am commanded by the President of the United States to repeat the assurance of his deep regret, that the transactions, which formed the subject of these complaints, should

ever have occurred, and his full conviction, upon a review of all the circumstances which have attended them, that they are attributable entirely to the conduct of the Governor and Captain General of Cuba, and of the subordinate officers of Spain, in evading and refusing the fulfilment of the most express and positive stipulations of the treaty, both of evacuating the province within six months from the exchange of the ratifications of the treaty, and of delivering the archives and documents relating directly to the property and sovereignty of the provinces.

At the time of the exchange of the ratifications of the treaty, your predecessor, General Vives, delivered an order from His Catholic Majesty to the Captain General and Governor of the Island of Cuba, *and of the Floridas*, informing him of the cession to the United States of that part of the provinces of which he was the governor, that was situated on this continent, and instructing him as follows:

"I command you, and ordain, that, after the information which "shall be seasonably given you by my Minister Plenipotentiary and "Envoy Extraordinary at Washington, of the ratifications having "been exchanged, you proceed on your part, to make the proper dis- "positions, in order that, at the end of six months, counting from the "date of the exchange of the ratifications, *or sooner if possible*, the "Spanish officers and troops may evacuate the territories of both "Floridas, and that possession of them be given to the officers or "commissioners of the United States, *duly authorized to receive them*. "You shall arrange, in proper time, the delivery of the islands adja- "cent and dependent upon the two Floridas, and the public lots and "squares, vacant lands, public edifices, fortifications, barracks, and "other buildings, which are not private property; as also the ar- "chives and documents which relate directly to the property and "sovereignty of the same two provinces, by placing them at the dis- "posal of the commissaries or officers of the United States, *duly* "*authorized to receive them*."

This order, thus clear and explicit, was despatched, together with letters from general Vives, to the governor of Cuba and the Floridas, notifying him of the exchange of the ratifications of the treaty, by Col. James G. Forbes, who was commissioned, "as agent and commissary of the United States, to deliver to him the Royal order, to arrange and concert with him, conformably to instructions committed therewith, the execution of the above stipulations, and to receive from the said governor and from any and every person possessed of the said archives and documents, all and every one of the same, and to dispose thereof in the manner prescribed by his instructions." Col. Forbes' authority, thus, was to *receive* the documents and archives, and to *concert and arrange* with the governor of the Floridas, the *delivery* of those provinces, which General Jackson was commissioned to receive, take possession of, and occupy, and of which he was further commissioned to be the governor, when surrendered to the United States.

The royal order was delivered by Colonel Forbes to the Governor of the Floridas, at the Havanna, on the 23d of April, 1821. There has been shown by that Governor no cause or reason which could justly have required him to delay the delivery of the documents and archives, and the arrangements for the delivery of the provinces, beyond the term of a single week. There were *twenty* boxes of those archives and documents; the whole, or with very few exceptions, the whole, of which ought, by the positive stipulation of the treaty, and by the express order of the King of Spain, to have been immediately delivered to Colonel Forbes. Not one of them was delivered to him; nor has one of them been delivered to this day.

The orders for the surrender of the provinces were delayed from day to day, notwithstanding the urgent and continual solicitations of Colonel Forbes, for the term of six weeks, at the end of which, to avoid further indefinite procrastination, he was compelled to depart without receiving the archives and documents, but, with repeated promises of the Governor, that they should be transmitted to this government—promises which have remained to this day unperformed.

The orders for the delivery of the provinces themselves, were not only thus unreasonably withheld, but when made out, though not furnished to Colonel Forbes till the last week in May, were made to bear date on the fifth of that month: nor were they prepared conformably to the stipulation of the treaty, or to the royal order of his Catholic Majesty; for, instead of directing the surrender to be made to the commissioners or officers of the United States, *duly authorized to receive them*, the instruction to the commanders in East and West Florida was to deliver those respective provinces to Colonel Forbes himself, who had from the United States no authority to receive them. And although expressly advised of this fact by Col. Forbes, with the request that the orders of delivery might be amended, and made conformable to the treaty, and to the royal command, Governor Mahy did not so amend it, but reduced Colonel Forbes to the alternative of submitting to further delays, or of departing with an imperfect and ambiguous order of delivery of West Florida, authorizing its surrender to the legally constituted authorities of the United States, (that is, as Governor Mahy well knew, to General Andrew Jackson) only, in case of any accident happening to Col. Forbes, whom he still affected to consider, notwithstanding his own express declaration to the contrary, as the commissioned agent of the United States to that effect.

The twenty boxes of documents and archives, which were at the Havanna, as has been mentioned, had been transmitted thither from Pensacola; and contained all the most important records of property in West Florida. The possession of them was in the highest degree important to the United States, not only as the vouchers of individual property, but as protecting guards against the imposture of fraudulent grants.

The same persevering system of withholding documents which it was their duty to deliver, has marked, I am deeply concerned to say, the conduct of both the commanders of East and West Florida, who were charged, respectively, to deliver those provinces to the United States. It is to this cause, and to this alone, as appears from a review of all the transactions of which you have complained, that must be traced the origin of all those severe measures which General Jackson himself was the first, while deeming them indispensable to the discharge of his own official duties, to lament. Charged as he was with the trust of receiving the provinces in behalf of the United States, of maintaining their rights of property within them, of guarding them to the utmost of his power from those frauds to which there was too much reason to apprehend they would be liable, and to which the retention of the documents gave so great and dangerous scope; entrusted, from the necessity of the case, during the interval of time, while the general laws of the United States remained unextended to the provinces, with the various powers which had, until that time, been exercised by the Spanish Governors, and which included the administration of justice between individuals; it was impossible that he should not feel the necessity of exercising, under circumstances thus exasperating and untoward, every authority committed to him by the supreme authority of his country, to preserve inviolate, so far as on him depended, the interests of that country, and the sacred obligations of individual right.

In the proceedings connected with the delivery of the province, he had as little reason to be satisfied with the conduct of Col. Callava, as with that of the Captain General. On a plea of indisposition, that officer had, on the day of the surrender, evaded the performance of a solemn promise, which General Jackson had considered an indispensable preliminary to the act; and afterwards the Colonel positively declined its fulfilment. He had, however, completed the surrender of the province with which he had been charged. He had declined producing to General Jackson any credential as a commissioner for performing that act; but had informed him that he should make the surrender as the commanding officer of the province, by virtue of orders from his superior. This service had been consummated; and Colonel Callava, whom General Jackson had formerly notified that he had closed with him his official correspondence forever, was bound, by the special stipulation of the treaty, to have evacuated, as one of the Spanish officers, the province, before the 22d of August. If General Jackson had, in courtesy to Col. Callava, considered him, notwithstanding his own disclaimer of the character, as a *Commissioner*, for the delivery of the province, there can be no pretence that he was entitled to special privileges under it, after he had avowedly performed all its duties; after he had been informed by General Jackson that their official correspondence was finally closed; and after the date when, by the positive engagements of the treaty which he was to execute, he was bound to have departed from the province. From the time when his functions for the surrender of the

province were discharged, he could remain in Pensacola no otherwise than as a private unprivileged individual, amenable to the duly constituted American authorities of the place, and subject to the same control of General Jackson, as a private citizen of the United States would have been to that of the Governor of the Floridas, before the surrender had taken place.

That this was the opinion of Col. Callava himself, and of his friends who applied to Judge Fromentin for the writ of *habeas corpus*, to rescue him from the arrest under which he was placed by the order of General Jackson, is apparent from their conduct on that occasion. It is stated by Judge Fromentin, that, before granting the supposed writ of *habeas corpus*, he required that Col. Callava should enter into a recognizance for twenty thousand dollars, with two securities, each for the amount of ten thousand dollars; the condition of which recognizance was, that Col. Callava should personally be and appear before the Judge of the United States for West Florida, &c. whenever required so to do; that he should not depart from the city of Pensacola, without the leave of the said court, nor send away, remove, or otherwise dispose of, unknown to the said court, any of the papers in question. It was only upon the promise of his friends that this recognizance should be executed, that Judge Fromentin consented to issue the writ of *habeas corpus;* and this recognizance renounces in fact every pretension of exemption from the judicial authority of the country; and consequently of the diplomatic privileges of a commissioner.

It has been seen that the most important documents relating to the property of West Florida had been transmited to the Havanna; there remained, however, a portion of them, particularly of judicial records, relating to the titles of individual property. Some of these Colonel Callava did deliver up with the province; others, of the same description and character, indispensable for the administration of justice in the province, and useless at the Havanna, whither it was his intention to have transported them, were retained; not in his possession, but in that of Don Domingo Sousa, a Spanish officer, who, by the stipulation of the treaty, ought also to have departed from the province before the 22d of August.

The day immediately preceding that date, the alcalde of Pensacola, at the suit of a woman, in a humble walk, indeed, of life, but whose rights were, in the eye of General Jackson, equally entitled to his protection with those of the highest rank, or the most commanding opulence, had represented to him that a number of documents, belonging to the alcalde's office, and relating to estates at that place, and to suits there instituted, were in the possession of Domingo Sousa; that the necessity for obtaining possession of those documents was urgent, and therefore he requested the Governor to authorize some one to make a regular demand of them, and to ascertain what they were. Governor Jackson, accordingly, forthwith commissioned the secretary of the territory, the alcalde of Pensacola himself, and the clerk of the county court of Escambia, to proceed to the dwellin.; of

Sousa, to make demand of all such papers or documents, belonging to the alcalde's office, as might be in his possession; and in case of Sousa's refusal to exhibit or deliver the same, immediately to report the fact to him, the Governor, in writing. These commissioners the next day reported to the Governor that they had examined the papers in the possession of Sousa: that they had found among them four sets of papers of the kind which belonged to the office of the alcalde, and among them those in which the woman from whom the first application had proceeded was interested; that they had, both verbally and in writing, demanded of him the delivery of those documents, which no private individual had a right to keep, as they related to the rights of persons holding or claiming property in the province, but that Sousa had refused to deliver them, alleging that he was but the servant of Colonel Callava, and could not deliver them without his order. In the transactions of Sousa, on this occasion, is manifested the same consciousness that the claim of diplomatic privilege, set up by Col. Callava, to screen him from the operation of the authority of Governor Jackson, was without foundation. For, although he refused to deliver up the papers, conformably to the Governor's command, he submitted to the examination of them by the commissioners, in obedience to the same authority; and, though he declined receiving from them the letter demanding the delivery of the papers, he told them that, to relieve himself from the responsibility of keeping them, he should deliver them to Governor Callava himself. They were accordingly sent to the house of Col. Callava, and put into the possession of his steward Fullerat. It is clear, however, that, if the papers, while in Sousa's possession, were privileged from delivering up at the command of Governor Jackson, they were equally privileged from examination by the same authority; and, if they were not lawfully screened from his process in the custody of Sousa, they could not be made so by removing them to the house of Colonel Callava. The truth is, that the removal of the documents, at that time, and in such a manner, was a high and aggravated contempt of the lawful authority of the Governor. It not only claimed for Colonel Callava diplomatic immunities, but assumed that he was still the Governor of the province, and that Sousa was amenable for his conduct only to him. Col. Callava might, on the same pretence, have retained the whole body of the Spanish officers and troops under his command at Pensacola, and insisted upon exercising over them all his extinguished authority, as Governor and commander in chief, after the 21st of August, as he could to exercise any official authority within the province, over Domingo Sousa, or to extricate him from the lawful jurisdiction of Governor Jackson.

It is under these circumstances that the subsequent measures of Governor Jackson are to be considered. He immediately issued an authority to Col. Robert Butler, and Col. John Miller, to seize the body of Sousa, together with the papers, and to bring them before him, that Sousa might answer such interrogatories as might be put to him, *and comply* with such order and decree, touching the said documents

and records, *as the rights of the individuals, secured to them by the treaty, might require, and the justice of the case might demand.* By virtue of this order, Sousa was brought before Governor Jackson, and again recognized the authority under which he was taken, by answering the interrogatories put to him. But he had already put the papers and documents out of his possession; and thus, as far as was in his power, baffled the ends of justice, and set at defiance the lawful authority of the Governor.

In this transaction, Col. Callava was avowedly the principal agent; and altogether unjustifiable as it was, whatever consequences of inconvenience to himself resulted from it, must be imputed to him. It was an undisguised effort to prostrate the authority of the United States in the province; nor had Governor Jackson any other alternative to choose, than tamely to see the sovereign power of his country, entrusted to him, trampled under foot, and exposed to derision by a foreigner, remaining there only upon his sufferance, or by the vigorous exercise of his authority to vindicate at once the rights of the United States, and the just claims of individuals to their protection.

Governor Jackson could consider Col. Callava in no other light than that of a private individual, entitled indeed, as the officer of a foreign power, to courtesy, but not to exemption from the process of the law. Notwithstanding his improper conduct, Governor Jackson, in the first instance, authorized Col. Butler and Dr. Bronaugh, accompanied by Mr. Brackenridge, the Alcalde, to wait upon him and his steward, and demand from them the specified papers, which Sousa had declared, in his answer to the interrogatories to have been delivered to the steward at Governor Callava's house. It was only in case of the refusal to give up the papers, that the order extended to the seizure of the person of Col. Callava, that he might be made to appear before Governor Jackson, to answer interrogatories, and to abide by, and perform, such order and decree as the justice of the case might demand. This demand was accordingly made, and although at the first moment peremptorily refused, yet, upon Col. Callava's being informed that his refusal would be considered as setting at defiance the authority of the governor of the Floridas, and of the consequences to himself which must ensue upon his persisting therein, he desired to be furnished with a memorandum, setting forth the documents required, which was accordingly done. But when the delivery of the papers was again demanded of him, he repeated the refusal to deliver them, and attempted both to avoid the personal approach of Colonel Butler and Dr. Bronaugh, and to exhibit a resistance by force of arms to the execution of the Governor's order. And it is not a little remarkable, that among the persons who appeared thus arrayed against the authority of the United States, to accomplish the denial and removal of the papers, was a man against whom the most important of those papers were judicial decisions of Governor Callava himself, in behalf of the orphan children, for the establishment of whose rights they were indispensably necessary, and at whose application they had been required.

Standing thus, in open defiance to the operation of the law, Colonel Callava was taken before the Governor; and there refusing to answer the interrogatories put to him, and asserting the groundless pretension of answering only as a commissioner, and by a protest against the acts of the Governor, he was, by his order, committed to prison, until the documents should be delivered to the Alcalde. On the next day, a search warrant for the papers was issued by the Governor, upon which they were actually obtained, and directed to be delivered to the Alcalde; whereupon, Colonel Callava was immediately released.

In all these proceedings, you will perceive, sir, that not one act of rigor, or even of discourtesy towards Colonel Callava, was authorized by Governor Jackson, which was not indispensably necessitated for the maintenance of his authority, and the discharge of his official duty, by the unjustifiable and obstinate resistance of colonel Callava himself.

On a review of the whole transactions, I am instructed by the President of the United States to say, that he considers the documents in question, as among those which, by the stipulation of the treaty, ought to have been delivered up, with the province, to the authorities of the United States; that they were, on the 22d of August, when in the possession of Domingo Sousa, within the jurisdiction of the United States, and subject to the control of their Governor, acting in his judicial capacity, and liable to be compulsively produced by his order; that the removal of them from the possession of Sousa, after the Governor's order to him to deliver them had been served upon him, could not withdraw them from the jurisdiction of Governor Jackson, and was a high and aggravated outrage upon his lawful authority; that the imprisonment of Colonel Callava was a necessary, though by the President deeply regretted consequence, of his obstinate perseverance in refusing to deliver the papers, and of his unfounded claim of diplomatic immunities, and irregular exercise even of the authorities of a governor of Florida, after the authority of Spain in the province had been publicly and solemnly surrendered to the United States.

That the documents were of the description of those which the treaty had stipulated should be delivered up with the province, is obvious, from the consideration of their character. They related to the property of lands in the province. They were judicial records, directly affecting the rights of persons remaining in the province; rights which could not be secured without them; rights over which the appellate tribunal of the governor of Cuba, to which Colonel Callava proposed to remove the papers, thenceforth could have no authority or control, they having become definitively subject to the jurisdiction of the United States. The only reason assigned by Colonel Callava for the pretension to retain them, is, that they related to the estate of a deceased Spanish officer, and had thereby been of the resort of the military tribunal. But it was for the rights of the living, and not for the privileges of the dead, that the documents were

to operate. The tribunal of the captain general of Cuba could neither need the production of the papers, nor exercise any authority over the subject-matter to which they related. To have transferred to the island of Cuba a question of litigated property, concerning land in Florida, between persons, all of whom were living, and to remain in Florida, would have been worse than a mockery of justice. Indeed, Mr. Salmon, in his note, appears to have been aware of the weakness of this allegation, declines the discussion of the question; and in justification of the refusal of Colonel Callava to deliver up the documents, merely rests its defence upon the plea, that the papers had not been demanded of him *officially*. It has been seen, that Colonel Callava had no official character which could then exempt him from the compulsive process of the governor. But Mr. Salmon alleges that the Spanish constitution, as well as that of the United States, separates the judicial from the executive power exercised by the governor or captain general of a province.

Neither the constitution, nor the laws of the United States, excepting those relating to the revenue and its collection, and to the slave trade, had at that time been extended to Florida. And as little had the Spanish constitution been introduced there, in point of fact, however it might have been proclaimed. But, be this as it may, the cause, in relation to which the documents required in the case of Vidal had been drawn up, and were needed, was one of those which, under the Spanish constitution itself, remained within the jurisdiction of the governor. This is declared by Colonel Callava himself, in the third observation of the appendix to his protest, transmitted with the letter of Mr. Salmon. It is the reason assigned by him for having withheld those documents from the Alcalde. And one of them was a judgment rendered by Colonel Callava himself, after the time when the proclamation of the Spanish constitution in the province is alleged to have been made. The cause, therefore, was, on every hypothesis, within the jurisdiction of the governor; the papers were indispensable for the administration of justice in the cause; and when once applied for, by a person entitled to the benefit of them, it was the duty, the inexorable duty, of Governor Jackson, to put forth all the authority vested in him, necessary to obtain them.

Nor less imperative was his obligation to punish, without respect of persons, that contempt of his jurisdiction, which was manifested in the double attempt of Colonel Callava to defy his power, and to evade the operation of its process.

With regard to the proclamation of General Jackson, of the 29th of September, commanding several Spanish officers, who, in violation of the stipulation in the treaty, had remained at Pensacola, after the expiration of the six months from the day of the ratification of the treaty, to withdraw, within four days, from the Floridas, which forms the subject of complaint in your letter of the 18th of November, it might be sufficient to say, that it did no more than enjoin upon those officers to do that which they ought before, and without any injunction, to have done. The engagement of the treaty was, that

they should all have evacuated the province before the 22d of August.

If they remained there after that time, it could only be as private individuals, amenable in every particular to the laws. Even this was merely an indulgence, which it was within the competency of General Jackson at any time to have withdrawn. From the extract of a letter from him, of which I have the honor of enclosing a copy, it will be seen, that he was far from being disposed to withdraw it, had they not, by their abuse of it, and by open outrages upon his authority, forfeited all claims to its continuance.

This extract furnishes a satisfactory answer to your question, why, if the fulfilment of the article was the object of the proclamation, it was confined to the eight officers, by name, and not extended to all other Spanish officers in the Floridas. It was because the deportment of the others was as became them, decent, respectful, and friendly towards the government, under the protection of which they were permitted to abide. In the newspaper publication, which gave rise to the proclamation of General Jackson, the Spanish officers avowedly acted, not as private individuals, but as a distinct body of men, speaking of Colonel Callava as *their chief*, *their superior;* and arrogating to themselves, as a sort of merit, the condescension of knowing what was due to a government (meaning the American government) which was on the most friendly footing with their own. This is language which would scarcely be proper for the ambassador of one nation, upon the territory of another, to which he would owe not even a temporary allegiance. From persons situated as those Spanish officers were, it was language of insubordination and contempt.

In alluding to the fact, that officers of the American squadron, in the Mediterranean, are sometimes received with friendly treatment on the territories of Spain, to make a case parallel with the present, it would be necessary to show, that some superior officer of the said squadron should, while enjoying the hospitality of the Spanish nation upon their shores, first attempt to evade and to resist, the operation of process from the constituted judicial tribunals of the country, and then pretend, as an American officer, to be wholly independent of them; and that some of his subalterns should not only countenance and support him in these attempts, but should affect to consider him, while on Spanish ground, as their only superior and chief, and by unfounded and inflammatory publications in the daily journals, to rouse the people of Spain to revolt and insurrection against the judicial tribunal of their own country.

If the bare statement of such a case would be sufficient to raise the indignation of every honorable Spaniard, let it be observed, that even this would be without some of the aggravations of the conduct of these Spanish officers at Pensacola. For such outrage would be far less dangerous, committed against old established authorities, which might rely upon the support of the whole people surrounding them, than in the presence of a people, whose allegiance

had been but just transferred to a new government, and when the revolt to which they were stimulated, would seem little more than obedience to the authorities to which they had always been accustomed to submit.

The very power which the Spanish governor and officers had exercised before the surrender of the province, ought to have been a most urgent warning to them to avoid every semblance of authority in themselves. or of resistance to that of the United States, after the transfer of the province had been completed.

In forbearing particularly to reply to that part of your note, in which you think yourself authorized to pronounce the charge of General Jackson against these Spanish officers, of having attempted to excite discontent in the inhabitants, *false*, I shall barely express the hope, that the term was admitted into your communication inadvertently. The conduct of the officers, at the time of Colonel Callava's conflict with the authority of the governor, as well as in their insulting newspaper publication, was of a character and tendency too strongly marked, to leave a doubt of the truth with which it is described in General Jackson's proclamation, and in passing unnoticed this and other mere invectives against an officer, whose services to this nation have entitled him to their highest regard, and whose whole career has been signalized by the purest intentions and the most elevated purposes, I wish to be understood as abstaining from observations, which, however justified by the occasion, could but add to the unpleasantness of a discussion already sufficiently painful.

That this conduct on the part of the Spanish officers was highly reprehensible, cannot reasonably be denied, and had General Jackson been disposed to animadvert upon it with severity, his course would undoubtedly have been that which you have pointed out as appropriate to the offence. They would have been cited before the proper tribunal, heard upon specific charges, allowed time and liberty to make their defence, and punished by commitment to prison. General Jackson preferred a milder and more indulgent measure; and without prosecuting them as criminals, only withdrew from them the privilege of a protracted infraction of the treaty, by requiring them forthwith to depart from the province. To justify him in this requisition, neither arrest nor judicial trial was necessary or proper. The facts were of public notoriety, and could not be denied. The proclamation only required of them the execution of the treaty, by the removal of their persons. Had their conduct even been unexceptionable, this measure would have been within the undoubted authority of General Jackson. As their deportment had been, it was the most lenient exercise of his power practicable, to vindicate the insulted honor and justice of his country.

I pass to the consideration of the complaints contained in your letter of the 22d of November. In order to take a correct view of this subject, it is again necessary to advert to the royal order of his Catholic Majesty to the Captain General and Governor of the Island of Cuba, and of the Floridas, commanding him to cause to be placed at the

disposal of the commissaries or officers of the United States, duly authorized to receive them, the archives and documents relating directly to the property and sovereignty of the two provinces.

On the 16th of May, the Captain General and Governor wrote to Colonel Forbes, that, "respecting East Florida, where there ought to be found all her archives, he, Governor Mahy, would direct Governor Coppinger to make a formal delivery of that province, *as well as of the documents belonging to it.*"

On the 24th of May, Colonel Forbes wrote to the Captain General, reminding him of the repeated promises made by his excellency, to dispatch him with the archives, which were to be delivered, and then were at the Havanna, and with the orders for the delivery of the provinces and of the archives deliverable there; of the continual disappointments to which he had been subjected by the failure of performance to those promises, and of the necessities which urged his immediate departure. He therefore proposed, "that if any further researches should be necessary for the discovery of the said archives, they might be delivered when more convenient to the Spanish government; that he, (Colonel Forbes) should be allowed to proceed immediately to West Florida, with the commissary appointed to carry the final order to the sub-governor there; and, lastly, that a duplicate order be given at once, *as agreed upon*, to the Governor of East Florida, for the delivery of that province to the constituted authorities of the United States, *together with the archives which were declared to be on the spot.*

On the 29th of May, the Captain General answered this letter, and enclosed to him the orders to the several Governors of East and West Florida, for the delivery of the provinces, antedated as I have already mentioned, with a declaration, that the archives then at the Havanna, and which ought to have been delivered to Colonel Forbes, *should be transmitted to the government of the United States*, as soon as they were selected; a promise, as I have before observed, yet unfulfilled.

These orders of the captain-general to the commanders of East and West Florida, are further remarkable by the omission of any direction in them for the delivery of the archives and documents. It had been expressly agreed by him, with colonel Forbes, that the order for the delivery of East Florida should include that of the archives. But it was not sufficient for governor Mahy to avoid the performance of this promise.

By the letter from colonel Butler to general Jackson, of the 21st January last, a copy of which I have the honor to enclose, it appears that, with regard to the greatest and most important part of those documents, he had expressly instructed colonel Coppinger *not* to deliver them. And hence, when on the 18th of June colonel Butler, the officer of the United States authorized to receive the province, notified colonel Coppinger that he had designated major Cross to receive the archives relating to the sovereignty and individual property of the province, he was answered by colonel Cop-

pinger, "As respects the delivery of the public archives, containing the records of individual property of this province, *that will be delayed*, until various doubts that occur are cleared up; but they will not be removed until then, nor will I leave this place until all matters are regulated and concluded between us, that demand my personal assistance."

Thus, upon the pretence of doubts, the nature of which was not explained, colonel Coppinger declined, positively, to deliver up documents conformably to the express stipulation of the treaty. Col. Butler immediately proposed to him a conference on the subject, which was held on the 21st of June. At that conference colonel Coppinger told colonel Butler, that "as an individual, he believed these archives should be given over to the United States, but, that *his orders prevented him from turning them over.*" Colonel Butler therefore assented, as, indeed, no other alternative seemed to be left him, that colonel Coppinger should have time to write to the captain-general of Cuba, for the decision of his doubts; and mentioned to him the opportunity of a vessel then about to sail for the Havana, when she was to return to St. Augustine, and might bring the answer of the captain-general. Colonel Coppinger, on the 23d of June, informed colonel Butler that he had that day written to the captain-general for the solution of his doubts; and, until he received his answer, the archives should not be removed from St. Augustine, and should remain precisely as they were. Colonel Butler, by his letter of 26th June, agreed to remain silent on the head of the archives, until the answer should be received from the captain general; but, within one week from that time, colonel Butler received information, that a large portion of these documents were packed for transportation. He wrote, therefore, on the 3d of July, to colonel Coppinger, enumerating specifically several kinds of records, relating directly to the property of the province, and declaring that he considered them among those which were not to be removed; the reply to which, by colonel Coppinger, is especially to be remarked, as expressing his opinion, that several of those documents were *excluded from delivery.* There can be no reasonable doubt, that all the papers, specified by colonel Butler's letter, were of those which the treaty had stipulated should be delivered up. When, therefore, general Jackson considered, and compared together, the express and positive order of the king of Spain, to the captain-general, and governor of Cuba, that he should faithfully see to the delivery of the documents; the pretences on which he evaded the delivery, to colonel Forbes, of those which were at the Havana, within his own control; the *promise* that he would direct the delivery, by colonel Coppinger, of those that were at St. Augustine; the peremptory postponement of colonel Coppinger to deliver up any documents or records relating to individual property; his engagement that none of them should be removed, until he should receive further instructions from the captain-general, and, within one week after, his attempt to pack up, for transportation to Cuba, a large portion of them; and, finally, his

pretensions that many papers, manifestly having direct relation to the property of the province, were excluded from delivery, and his recurrence to the *literal* sense of his orders from the captain-general, with the verbal avowal to colonel Butler, of his own opinion that the documents ought to be delivered, though he was forbidden by his instructions to deliver them: it was impossible for general Jackson to close his eyes against proceedings so unjustifiable and improper. He, therefore, gave instructions to the officer commanding at St. Augustine to take possession of the papers which the treaty had stipulated should be delivered.

The necessity for taking possession of them had indeed arisen before the instructions of Gen. Jackson were received. Most of the records relating to individual property had been left in possession of Don Juan de Entralgo; who, on the pretence that he had purchased at public sales, under the Spanish government, not only those documents, but the office of register of them, openly advanced the claim of retaining the records as his private property, and of continuing the exercise of the office, and receiving fees for granting copies of the same.

These pretensions were raised on the 5th of September, nearly three months after the doubts of Col. Coppinger had, with the consent of Colonel Butler, been referred to the captain general and governor of Cuba. Long before that time the answer of that officer ought to have been received, peremptorily commanding the delivery of the papers.

It was impossible that the United States should acquiesce in the claims of Mr. Entralgo. They were unquestionably entitled to the documents: and whatever injury he might sustain, by the delivery of them, it might give him a fair demand of indemnity from his own government, but certainly not from the United States.

Yet the secretary and acting governor, Mr. Worthington, allowed a further delay of nearly a month, before taking the decisive measures necessary to obtain the documents. He then, on the 3d of October, authorized three persons of respectable character to obtain them, with the use of force if necessary; but with all suitable delicacy and respect towards the persons who had been the officers of Spain in the province. I have the honor of enclosing, herewith, copies of the orders from the secretary Worthington, to the commissioners appointed by him to receive, and afterwards to examine and assort the papers, and of their reports to him, exhibiting the manner in which both those services were performed. They will prove, that every regard was shewn towards Colonel Coppinger, and Mr. Entralgo, compatible with the execution of the duty; and after the assortment of the papers, all those which were not of the description stipulated to be delivered over by the treaty, have ever been, and yet are, ready to be returned to Colonel Coppinger, or to any person duly authorized to receive them.

Such is the view which I am instructed to say has definitively been taken by the President of the United States, in relation to the transactions which formed the subjects of your letters of the 18th and 22d of November last, and of that of Mr. Salmon of the 6th of October.

He is satisfied that by the proceedings of the governor of Florida towards Colonel Callava, on the 23d of August last, and towards certain individuals, presuming to act as a body of Spanish officers in Florida, in contempt of the authority of the United States, on the 29th of September, and by those of the secretary of East Florida, acting as governor, on the 2d and 3d of October, towards Colonel Coppinger, and Don Juan de Entralgo, no intention of injury or insult to His Catholic Majesty, or his government, was entertained, and that no just cause of complaint by them was given. That those measures were all rendered necessary, by the total disregard of the captain general and governor of Cuba and the Floridas, and of his subordinate officers, in the Floridas, not only of the solemn stipulation in the treaty, for the delivery of the archives and documents directly relating to the property of those provinces, but of the royal order of their sovereign, commanding the said captain general to see to the faithful execution of that engagement; an engagement, in the fulfilment of which the rights not only of the United States, but of every individual inhabitant of the provinces and proprietor in them, were deeply and vitally interested.

The mere enumeration of the documents, as specified in the demands of them made by the officers of the United States, before resort was had to any measure of rigor for extorting them, proves, that they were indispensable for the establishment of public right, or for the security of private property. To Spain, not one of those documents could, after the transfer of the provinces, be of the slightest interest or utility. To the United States they were all important. If the Governor and Secretary had so little understood their duty to the public rights of their country, committed to their charge, as to have suffered the removal of records, essential to guard the interests of the nation against the insatiate greediness and fraudulent devices of land speculators, they had yet a sacred duty to perform to the people of the country, by retaining the common vouchers of their estates. What individual would have been secure in the tenure of his land, in the evidences of his debts, or in the very shelter over his head, if colonel Callava could have carried to Cuba his own judgments in favor of the Vidals, because their father, when alive, had been an auditor of war; and if Don Juan de Entralgo could have transported to the same island all the title deeds of East Florida, because he had bought his office of recorder at public auction?

The delays of the captain general of Cuba, with regard to the fulfilment of the royal order, transmitted to him by colonel Forbes, were so extraordinary, and upon any just principle so unaccountable, that the minister of the United States in Spain, was, by letters from this department of 13th and 16th June last, instructed, upon his return to Madrid, to represent the same to your government, and to request new and peremptory orders to that officer, for the delivery of the archives in his possession, conformably to the stipulation of the treaty. The renewal of the order was declined, upon the ground of entire confidence on the part of your government, that the captain

general would, before it could be received, have completed the deli
very of the archives and documents, as he had been commanded b
the king.

I regret to be obliged to state, that this just expectation of his Ca
tholic majesty has not yet been fulfilled.

Captain James Biddle, commander of the United States' frigat
Macedonian, has therefore been commissioned to repair to the Ha
vana, there to receive the documents and archives, which colon
Forbes was obliged to leave; and which, it is hoped, the captain ge
neral and governor of Cuba will cause to be delivered without fu
ther delay.

I pray you, sir, to receive the assurance of my distinguished co
sideration.

JOHN QUINCY ADAMS.

Don Joaquin d'Anduaga,
Envoy Extraordinary, &c. &c.

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